



**DIRECTIVE ON OTHER REMUNERATIVE WORK OUTSIDE
THE EMPLOYEE'S EMPLOYMENT IN THE RELEVANT
DEPARTMENT AS CONTEMPLATED IN SECTION 30 OF THE
PUBLIC SERVICE ACT, 1994**

ISSUED BY THE MINISTER FOR THE PUBLIC SERVICE AND ADMINISTRATION

1 November 2016

Directive on other remunerative work outside the employees' employment in the relevant department

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DEFINITIONS

In this Directive, unless the context indicates otherwise, any word shall have the meaning assigned to it in the Act and the Regulations.

"Applicant" refers to an employee who requests permission from the relevant executive authority to perform other remunerative work;

"Business" includes any business, trade, occupation, profession, calling, industry or undertaking of any kind, or any activity carried on for gain or profit by any person within the Republic or elsewhere, and includes all property derived from or used in or for the purpose of carrying on such other activity, and all the rights and liabilities arising from such other activity;

"calendar month" means a period extending from a day in one month to a day preceding the day corresponding numerically to that day in the following month, both days inclusive;

"Code of Conduct" means the Code of Conduct contained in Part 1 of Chapter 2 of the Regulations;

"Conflict of interest" refers to a conflict between the public duties and private interests of an employee, in which the employee has private interests which could improperly influence him/her, and/or negatively impact on his/her disposable time to work, and/or negatively impact on his/her official obligations or official duties, and/or negatively impact on the public interest;

"days" means any days other than Saturdays, Sundays or public holidays as defined in the Public Holidays Act, 1994 (Act 36 of 1994)

"delegated authority" means the functionary to whom the power is duly delegated or authorised in terms of section 42A of the Act;

"EA" means an executive authority as defined in Section 1 of the Act;

"Ethics Officer" refers to the ethics officer designated by the executive authority as required in terms of regulation 23(1) of the Public Service Regulations, 2016;

"Organ of State" means –

(a) any department of state or administration in the national, provincial or local sphere of government; or

(b) any other functionary or institution –

(i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or

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(ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer.

"Other remunerative work" means any business carried out or services rendered for gain or personal benefit by an employee outside his or her employment in the relevant department, for which remuneration is received;

"Regulations" means the Public Service Regulations, 2016;

"Remuneration" means any payment or benefit in cash or in kind, and **"remunerative"** has a corresponding meaning;

"the Act" means the Public Service Act, 1994;

"the Regulations" means the Public Service Regulations, 2016; and

"this Directive" means this Directive on Other Remunerative Work Outside an Employee's Employment in the Relevant Department as Contemplated in Terms of Section 30 of the Act.

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1. INTRODUCTION

- 1.1. This Directive elucidates Regulation 24 of the Regulations, addressing section 30 of the Act, and contributes towards the enhancement of the value system which guides the professional conduct of Public Service employees.
- 1.2. Public Service employees are required in terms of section 195 of the Constitution of the Republic of South Africa, 1996 to exercise the highest ethical standards and adhere to the Code of Conduct as they are entrusted with the duty and responsibility of serving a broader society.
- 1.3. This Directive serves as an effective resource to employees applying for permission to undertake other remunerative work outside their employment in their relevant departments: that they apply with the public interest in mind; that the work to be engaged in, will not in any way disadvantage the work of public servants in the modern state; to ensure the maintenance of excellent services to satisfy the needs of communities and to enhance the reputation of the Public Service in South Africa.

2. PURPOSE

The purpose of this Directive is to:

- 2.1. promote ethical behaviour among Public Service employees;
- 2.2. reduce possible, perceived and potential conflicts of interest;
- 2.3. set out the application process to perform other remunerative work;
- 2.4. prescribe the form to be used by employees to apply for permission to undertake other remunerative work;
- 2.5. effect transitional measures that will facilitate the implementation of the Directive; and
- 2.6. place a reporting obligation on Heads of Departments.

3. AUTHORISATION

This Directive is issued by the Minister in terms of section 41(3) of the Public Service Act, 1994.

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4. SCOPE OF APPLICATION

This Directive applies to all departments and its employees employed in terms of the Act and to members of the services, educators or members of the Intelligence Services only in so far as the provisions of this Directive are not contrary to the laws governing their employment.

5. STATUTORY FRAMEWORK

The following legislation mandates this Directive:

5.1. Section 30 of the Act provides as follows:

- 5.1.1. Subsection (1): No employee shall perform or engage himself or herself to perform remunerative work outside his or her employment in the relevant department, except with the written permission of the executive authority of the department.
- 5.1.2. Subsection (2): For the purposes of subsection (1) the executive authority shall at least take into account whether or not the outside work could reasonably be expected to interfere with or impede the effective or efficient performance of the employee's functions in the department or constitute a contravention of the Code of Conduct, contemplated in section 41 (1) (b) (v) of the Act.
- 5.1.3. Subsection (3)(a): The executive authority shall decide whether or not to grant permission, contemplated in subsection (1), within 30 days after the receipt of the request from the employee in question.
- 5.1.4. Subsection (3)(b): If the executive authority fails to make a decision within the 30 day period, it would be deemed that such permission was given.

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5.2. Section 31 of the Act provides as follows:

5.2.1. Subsection (1) (a)(i): If any remuneration, allowance or other reward (other than remuneration contemplated in section 38 (1) or (3)), is received by an employee in connection with the performance of his or her work in the public service otherwise than in accordance with this Act or a determination by or directive of the Minister, or is received contrary to section 30, that employee shall, subject to subparagraph (iii), pay into revenue-

5.2.1.1. (aa) an amount equal to the amount of any such remuneration, allowance or reward; or

5.2.1.2. (bb) if it does not consist of money, the value thereof as determined by the head of the department in which he or she was employed, at the time of the receipt thereof.

5.2.2. Subsection (1) (a)(ii): If the employee fails to so pay into revenue the amount or value, the said head of department shall recover it from him or her by way of legal proceedings and pay it into revenue.

5.2.3. Subsection (1) (a)(iii): The employee concerned may appeal against the determination of the head of department to the relevant executive authority.

5.2.4. Subsection (1) (a)(iv): The accounting officer of the relevant department may approve that the employee concerned retains the whole or a portion of the said remuneration, allowance or reward.

5.3. Public Service Regulations, 2016, provide as follows:

5.3.1. Regulation 13 (b): An employee shall not engage in any transaction or action that is in conflict with or infringes on the execution of his or her official duties.

5.3.2. Regulation 13 (c): An employee shall not conduct business with any organ of state or be a director of a public or private company conducting business with an organ of state, unless such employee is in an official capacity a director of a company listed in schedule 2 and 3 of the Public Finance Management Act.

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- 5.3.3. Regulation 13 (i): An employee shall if he or she has permission in terms of section 30 of the Act to perform outside remunerative work, not –
- (i) perform such work during official work hours; and
 - (ii) use official equipment or state resources for such work.
- 5.3.4. Regulation 19 (e) stipulates that all employees are to disclose remunerative work outside the employee's employment in his or her department.
- 5.3.5. Regulation 24 stipulates that an application by an employee to perform remunerative work outside his or her department shall be in accordance with the process determined by the Minister and in the form issued by the Minister.

6. APPLICATION TO PERFORM OTHER REMUNERATIVE WORK OUTSIDE THE RELEVANT DEPARTMENT

The following process must be adhered to:

6.1. APPLICATION

- 6.1.1. Before undertaking other remunerative work, an employee must first obtain written permission from the executive authority or delegated authority in terms of applicable prescripts and this Directive.
- 6.1.2. The employee completes sections A to D of the application form (Annexure A) and submits the duly completed form to the Ethics Officer.
- 6.1.3. The request to perform other remunerative work should not exceed a period of 12 calendar months.
- 6.1.4. The 30 day period as required in terms of Section 30 (3)(a) of the Act commences on the date the Applicant submits his/her duly completed application form to the Ethics Officer.

6.2. PROCESSING OF APPLICATION

- 6.2.1. The Ethics Officer submits the completed form, within three days of receipt, to the Applicant's immediate supervisor, who is required to complete section E. In making recommendations to support or not to support the application, the supervisor considers if the other remunerative work could reasonably be expected to interfere with or impede the effective or efficient performance of the employee's functions or constitute a contravention of the Code of Conduct.
- 6.2.2. The Applicant's immediate supervisor must duly complete section E and submit the application form back to the Ethics Officer, within five days of receipt of the form from the Ethics Officer.
- 6.2.3. After receiving the duly completed application form (with sections A to E duly completed) from the supervisor of the applicant, the Ethics Officer must analyse all the information to identify any possible, perceived or potential conflict of interest that may arise as a result of the employee undertaking other remunerative work.
- 6.2.4. To assist the Ethics Officer with his/her recommendation to support or not to support the application, the Ethics Officer may request all relevant information from the human resources component of the department relating to the performance of the Applicant. This is to determine the likelihood of the other remunerative work interfering with or impeding the effective or efficient performance of the employee's functions or constituting a contravention of the Code of Conduct.
- 6.2.5. The Ethics Officer shall complete section F and submits his/her recommendation to the EA or delegated authority for a decision.
- 6.2.6. The Ethics Officer must duly complete section F within 7 days of receipt of the form from the supervisor.

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6.2.7. The Ethics Officer must ensure, as far as possible, that the 30 day period is adhered to.

6.2.8. The Ethics Officer must ensure that the confidentiality of applications are maintained.

6.3. DECISION MAKING

6.3.1. The EA or delegated authority must examine all the information contained in the application form, including the recommendation by the ethics officer, and makes a final decision – either to grant permission or to decline the request.

6.3.2. The decision of the EA or delegated authority, whether he/she granted permission or declined the request, must be recorded in section G of the application form. If permission was not granted by the EA or delegated authority, he/she shall record the reason(s) for his/her decision in writing, in section G.

6.3.3. The EA or delegated authority, when making a decision, must at least take into account whether or not the other remunerative work:

6.3.3.1. could reasonably be expected to interfere with or impede the effective or efficient performance of the employee's functions; or

6.3.3.2. constitutes a contravention of the Code of Conduct.

6.3.4. The EA or delegated authority grants permission to an employee to perform other remunerative work by signing the application form and the certificate of approval.

6.3.5. The EA or delegated authority must ensure that the decision is made within 15 days of receipt of the application form from the Ethics Officer and must ensure as far as possible that the 30 day period contemplated in section 30 of the Act is complied with.

6.3.6. The approved period should not exceed 12 calendar months from date of approval and is only valid for the exact type of other remunerative work for

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which approval was sought and granted.

6.3.7. If permission is granted on the basis of section 30 (3)(b) of the Act, the deemed permission remains valid for a period of 12 calendar months and all provisions within this directive apply.

6.3.8. If the employee wishes to continue performing other remunerative work after the approved period, a new application should be submitted 30 days before expiry.

6.4. FEEDBACK

6.4.1. When permission is granted by the EA or delegated authority, the Ethics Officer shall return the signed copy of the certificate of approval (Annexure B) to the Applicant and inform the supervisor of the outcome.

6.5. RECORD KEEPING

6.5.1. The Ethics Officer must capture all steps of the application process contemplated in paragraph 6 on the PERSAL system under the fields created specifically for the recording of applications, including if the approval was obtained in terms of section 30(3)(b) of the Act.

6.5.2. All employees who have been granted approval to perform other remunerative work must attach the certificate of approval when disclosing their financial interests in terms of the Regulations.

6.5.3. A copy of the application forms must be filed in the Applicant's personnel file for record keeping.

7. TRANSITIONAL MEASURES

7.1. In terms of the Regulations, the following transitional period is introduced to manage existing approvals:

All approved and deemed approved applications which were granted prior to the coming into effect of this Directive, being 1 November 2016, shall terminate within 6 calendar months after the commencement of this Directive.

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- 7.2. If the employee wishes to continue performing other remunerative work after the six calendar month period referred to in paragraph 7.1, a new application should be submitted in the prescribed format.

8. NON-COMPLIANCE

- 8.1. The Ethics Officer must periodically monitor employees who have permission to perform other remunerative work to guard against other remunerative work interfering or impeding the effective or efficient performance of the employee's functions in the department or for possible contravention of the Code of Conduct (which includes amongst others a prohibition on employees conducting business with any organ of state).
- 8.2. All cases of non-compliance must be dealt with in terms of section 16 A and 16 B of the Act, as well as section 31 of the Act. The outcome must be captured on PERSAL and, where applicable, the amount to be repaid/deducted indicated.
- 8.3. In line with section 5(7) of the Act, any decision made by the EA or his/her delegated authority shall be corrected if that decision was based on an error of fact, law or fraud. This includes, amongst others: where Applicants omitted facts that may have influenced the decision to grant permission; and/or where the Applicant misrepresented the facts pertaining to his/her involvement in other remunerative work.

9. INTERNAL, EXTERNAL TRANSFER AND NEW APPOINTMENTS

- 9.1. Applications must be reviewed should the employee be transferred or reassigned within a department. Employees who are transferred or reassigned within a department should inform the Ethics Officer within 5 days after accepting a transfer/reassignment. The Ethics Officer assesses the impact of the change for possible, perceived or potential conflict of interest and determine the likelihood of the other remunerative work to interfere or impede the effective or efficient performance of the employee's functions or if it

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constitutes a contravention of the Code of Conduct. The Ethics Officer submits his/her assessment to the EA or delegated authority within 5 days after being informed. The EA or delegated authority then has 15 days to review his/her decision.

- 9.2. Employees who are transferred to another department must submit, within 30 days after accepting a transfer, a new application form to the relevant EA or delegated authority as per this Directive.
- 9.3. During the recruitment process, candidates must be informed that they should stop all other remunerative work before being appointed into the public service. After appointment, they may request permission to perform other remunerative work as per this Directive.


10. DATE OF IMPLEMENTATION

This Directive shall take effect on 01 November 2016.

11. MONITORING AND REPORTING

- 11.1. Heads of Department are responsible for ensuring compliance with this Directive.
- 11.2. The DPSA will provide technical assistance on the implementation of this Directive.
- 11.3. Heads of Department are required to report to the DPSA all cases of non-compliance, including corrective actions taken and deemed approvals pertaining to the financial year not later than 30 April of each year.

DIRECTIVE ISSUED BY THE MINISTER FOR THE PUBLIC SERVICE AND ADMINISTRATION



ADV. N. RAMATLHODI (DR), MP
MINISTER FOR PUBLIC SERVICE AND ADMINISTRATION

DATE: 16-09-2016

SECTION B: WORKING HOURS (TO BE COMPLETED BY THE APPLICANT)**1. Current working hours of the applicant (per week)**

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2. Call/standby duties hours (per week)

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3. Current overtime hours worked (per month)

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SECTION C: APPLICATION FOR OTHER REMUNERATIVE WORK (TO BE COMPLETED BY THE APPLICANT)**1. Please select the category of other remunerative work applying for (tick only one option)**

Category of Work (please tick appropriate box)		
Architecture Planning and Surveying		
Building Construction		
Consultancy Work		
Design (Textiles; Graphics)		
Engineering and Mechanical Repairs		
Farming and Breeding		
Fashion Design/Sewing		
Financial Markets		
Fitness Industry (including Gym, Yoga, Pilates, and Karate instructor)		
Health Professionals		
Sub Categories of Health Professionals:	Medical Doctors	
	Nursing and Midwifery Professionals	
	Traditional and Complementary Professionals	
	Paramedical Practitioners	
	Sport Scientists (Physiotherapist, etc.)	
	Veterinarians	
	Other Health Professionals (Psychologists, etc.)	
Hospitality Industry (Including Catering, Baking)		
Import and Export Business		
Information and Communication (including Call Centre/Contact Centers)		
Logistics and Transport (including Shuttle Services, Travel Agency)		

Manufacturing Mining Construction	
Retail and Wholesale Trade	
Sales and Marketing (including Advertising, Public Relations and Promotion, as well as direct marketing of Cosmetics, Jewellery, Health Products))	
Security Industry	
Sports Recreation and Cultural (including Dancer, Musician, Singer)	
Training Research and Development (including Lecturing and Tutor)	
Tavern Owner and Restaurants	
Pastoral Services (Religious Leader, Reverend, Priest, etc.)	
Funeral Parlor	

2. Describe in detail the nature of the work that will be performed

3. Dates for performing the remunerative work

3.1. Planned start date of other remunerative work (Note that permission is only granted for a maximum period of 12 calendar months)

y	y	y	y	m	m	d	d
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3.2. Planned end date of the remunerative work

y	y	y	y	m	m	d	d
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SECTION D: DECLARATION (TO BE COMPLETED BY THE APPLICANT)

I, _____ (full name), hereby confirm that the information supplied in this application form is correct and undertake to assist my department in meeting its service delivery demands, including overtime commitments (if applicable), which includes being on call/standby (when applicable) as scheduled. I acknowledge that my first commitment is to meet the operational objectives of my department.

I confirm that my performance of other remunerative work will in no way interfere with my commitments to my department.

I confirm that my performance of other remunerative work will not take place during the hours I am required for duties as agreed in my employment contract.

I confirm that I will not use any state resources for the purpose of performing other remunerative work.

I accept that I shall not conduct business with any organ of the state, either in person or as part of an entity (including non-profit organisations).

I accept that permission to perform other remunerative work is only granted for the time agreed upon (and reflected on the certificate of approval), and that it only applies to the services/types of remunerative work as indicated in this application form.

I accept that, should I wish to continue with such remunerative work, I must submit a new application at least 30 days before expiry.

I accept that non-compliance with any of the conditions, monitoring or control measures pertaining to other remunerative work may lead to disciplinary action and that the sanction imposed includes forfeiture of remuneration and/or benefits gained.

I accept that the normal policies and measures governing discipline also apply in terms of non-compliance with the other remunerative work policy and measures.

I agree to abide by any control measures applicable to the other remunerative work system, including that it may be required of me to sign in and out each time I enter or exit the institution where I perform my basic or overtime duties. I agree to attach the certificate of approval when disclosing my financial interests, if applicable.

I acknowledge that the Executive Authority or delegated authority can, at any time, terminate my authorisation to perform other remunerative work, based on a change in operational requirements and/or poor performance on my part.

Signature of Applicant: _____

Designation: _____

Date:

y	y	y	y	m	m	d	d
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After completing the form and signing the above (sections A-D), please present it to the Ethics Officer for further administrative processing and submission to the Executive Authority/Delegated Official.

SECTION E: RECOMMENDATIONS (TO BE COMPLETED BY THE IMMEDIATE SUPERVISOR)

1. Recommendation by Supervisor

1.1. Application is Supported/Not supported

1.2. Motivation for recommendation/reasons for not supporting

Signature of Supervisor: _____

Designation: _____

Date:

y	y	y	y	m	m	d	d
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SECTION F: RECOMMENDATIONS (TO BE COMPLETED BY THE ETHICS OFFICER)

1. Application is supported/not supported

2. Motivation for recommendation

If not supported please state reason(s):

Reason(s)	Tick
Conflict of interest	
Organisational requirements (work load)	
Impacting negatively on the employee's performance	
Contravening provisions in the Code of Conduct	
Involving the use of State resources to perform other remunerative work (including telephone, fax, email, etc.)	
Prevents the employee from placing their time at the disposal of the State	

Signature of Ethics Officer: _____

Designation: _____

Date:

y	y	y	y	m	m	d	d
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SECTION G: APPROVAL (TO BE COMPLETED BY THE EXECUTIVE AUTHORITY OR DELEGATED AUTHORITY)

1. Application is Approved/Not approved
2. Comments

Signature of Executive Authority/Delegated Official: _____

Date:

y	y	y	y	m	m	d	d
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CERTIFICATE: APPROVAL OF OTHER REMUNERATIVE WORK

Permission is hereby granted to

(_____ employee _____)

(_____ persal no/ID No _____)

to perform other remunerative work outside (_____ the department_____).

The following work will be conducted:

(Short description, indicating the type of work, the name and type of business activity, name of employer and the amount of remuneration to be received)

Period: _____ to _____ (maximum 12 calendar months)

Please note:

Permission is only granted for the work indicated above. If it is to be discovered that you are not adhering to Government prescripts regulating other remunerative work, including not conducting business with an organ of state, your permission will be withdrawn and disciplinary steps will be instituted. If you wish to continue with other remunerative work after the expiry of the approved date, a further application must be submitted.

(Executive Authority/Delegated Authority)

Date: